

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

This civil rights action brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Bana Roberts, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Roberts entered a Report and Recommendation on June 8, 2008, to which Plaintiff has timely objected. The Court therefore considers the matter de novo.

Plaintiff contends that dismissal upon initial screening is not appropriate because he has paid the filing fee. However, the unambiguous terms of 28 U.S.C. § 1915A require an initial review of any complaint filed by a prisoner seeking redress from an officer or employee of a governmental entity. This objection is without merit.

The facts and relevant law are set out in full in the accurate and well-reasoned opinion of the Magistrate Judge. No point would be served in repeating that analysis. Beyond the objection to initial screening under § 1915A, Plaintiff does not specifically dispute either the

factual recitation or the legal reasoning employed by the Magistrate Judge, but rather disagrees, in a summary fashion, with the ultimate conclusions.

Plaintiff does, however request leave to amend, and demands the Court inform him of the defects in his complaint or appoint counsel. The Court is neither required nor permitted to give litigants legal advice. The basis for dismissal is clearly explained in Judge Roberts' Report and Recommendation: that Heck v. Humphrey, 512 U.S. 477, 487 (1994), precludes relief under § 1983 if it would imply the invalidity of the conviction unless that conviction has been set aside, and that the ADA does not give rise, under these circumstances, to a cause of action against individuals. There is nothing apparent which would justify the appointment of counsel. See Williams v. Meese, 926 F.2d 994, 996 (10th Cir. 1991).

Accordingly, the Court adopts the Report and Recommendation (Dkt. No. 14), in its entirety, and for the reasons stated therein, this action is dismissed, without prejudice. Plaintiff's Motion for Appointment of Counsel (Dkt. No. 12), Motion to Strike (Dkt. No. 15), Motion for Declaratory Judgment (Dkt. No. 16), and Motion to Amend (Dkt. No. 17), are denied.

IT IS SO ORDERED this 29th day of June, 2007.



ROBIN J. CAUTHRON
United States District Judge